

STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of James Arpino,
Battalion Fire Chief (PM2170W),
Voorhees Township

CSC Docket No. 2022-896

Administrative Appeal

**ISSUED: NOVEMBER 22, 2021
(RE)**

James Arpino requests placement on the certification (PL210681) resulting from the examination for Battalion Fire Chief (PM2170W), Voorhees Township.

By way of background, the petitioner was one of two candidates originally scheduled to take the written portion of the examination on January 10, 2019. He requested and received a make-up examination, which was administered on February 17, 2021. The petitioner took the oral portion of the examination as scheduled. On July 6, 2021, the certification (PL210681) was issued with only the name of the other candidate. Concurrently, petitioner filed an appeal of the multiple-choice questions in March 2021, and the Civil Service Commission (CSC) decided that matter in June 2021. *See In the Matter of James Arpino and Rich Marsh* (CSC, decided June 30, 2021). Thereafter, on July 19, 2021, the petitioner received his score for the examination, a final average of 87.260. This score was issued after the certification, and therefore, he was not included on it.

It is noted that the petitioner had filed an appeal regarding the timing of his makeup examination request in March 2019. At that time, he stated that he intended to cancel his makeup examination request and appear for the original examination given January 10, 2019, but did not do so because a Customer Service Representative informed him that a makeup examination would be held only a month later, and the one another month after that. He indicated that he spoke to the public safety make-up examination person who indicated that that his initial documentation was correct, and that the makeup would be given in May 2020. In that documentation, the appellant was sent a letter from the Make-Up Exam Unit which indicated that the makeup exam would occur in the next cycle of announcements that are issued for the title. He was also required to sign and submit an Agreement to Take a Makeup Examination which he did on December 31, 2018. This agreement indicates that make-up exams are given at the time the

next regularly scheduled examination is administered, and that it can take a year or longer. Rather than rely on this information, the petitioner called a Customer Service Representative, and relied on his verbal advice that an examination would be given a month after the original examination. Unfortunately, that individual was a new employee at the time and did not work in the Make-Up Unit. Based on this advice, the petitioner then chose to take the makeup examination. Even if the petitioner had been improperly advised by the Customer Service Representative, the CSC would be constrained in its remedy. There are no extra promotional fire examinations which are pre-made for make-up candidates, and there is no pre-made Battalion Fire Chief written examinations for make-up candidates. Each examination has to be created as needed, and this takes time. That is why make-up candidates are provided this information in the Agreement, and signing the agreement means that the candidate agrees to these terms.

In normal circumstances, a makeup examination may have been available by early spring of 2020. However, with the COVID 19 pandemic affecting services in March 2020, a makeup examination was not available until February 2021. Further, scores were not available until appeals of test items, one of which was submitted by the petitioner, had been decided by the CSC. This series of events resulted in the appellant receiving his score after the certification was issued, and the petitioner was informed that he would be added only to prospective certifications.

In his current request, the petitioner explains the timeline of his testing experience and requests to be added to the certification on the basis of administrative error when he was told that the make-up examination would only be several months later, and due to subsequent delays.

CONCLUSION

N.J.A.C. 4A:4-2.9(g) states, the name of any candidate passing a make-up examination will be added to the eligible list. Except for error by the Civil Service Commission or appointing authority, prior appointments from the eligible list will not be affected by the addition of a name to the list.

N.J.A.C. 4A:4-3.6(b) states, when the name of an eligible is added to an existing list to correct an error made by the Civil Service Commission, an appropriate representative of the Commission shall determine the retroactive certification and/or appointment rights. When the name of an eligible is added to an existing list for any other reason, the Chairperson or designee shall determine the effect of the action on certifications and prior permanent appointments.

In this case, the call center gave advice to the appellant regarding the timing of a make up examination which was incorrect, and which contradicted the information that the petitioner had in writing. Although the petitioner signed an Agreement to Take a Makeup Examination which stated that the make-up

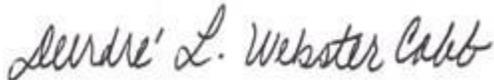
examination would be given in the next test cycle, he relied on the verbal advice and chose to take a make-up examination. While this was an administrative error, the petitioner did not practice due diligence by communicating with the make-up unit rather than the call center. Nevertheless, once the appellant had decided to take a make-up examination and did not appear for the examination in January 2019, there was no remedy that could be fashioned, as Battalion Fire Chief examinations are created as needed for test cycles. Nonetheless, due to the interruption of services because of the pandemic, the makeup examination was given a year after it was expected to be administered. Further, there is only one candidate on the certification, and pursuant to *N.J.A.C. 4A:4-4.8*, the “Rule of Three,” the appointing authority is not required to appoint from the list as there are not three eligible candidates. To date, the appointing authority has not made an appointment from the certification. Based on these unique circumstances, the appellant’s name should be added to the certification for Battalion Fire Chief, Voorhees (PL210681). This determination shall not be precedent for any other matter.

ORDER

Therefore, this request is granted and James Arpino be added to the certification for Battalion Fire Chief, Voorhees (PL210681).

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 17TH DAY OF NOVEMBER 2021



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